

REMARKS/ARGUMENTS

Claims 1-11, 14, and 17-21 were pending and examined. Claim 1, the sole independent claim, has been amended. Claims 2 and 6 have been cancelled. Reexamination and reconsideration of the claims as amended are respectfully requested.

Claims 1-2, 5-6, 8, 10-11 and 17 continue to be rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 2003/0055454 to Zucker (hereinafter "Zucker"). Such rejections are traversed in part and overcome in part as follows.

Applicant continue to believe that the aforementioned claims are allowable over Zucker for the reasons discussed in the Amendment submitted June 16, 2008 (hereinafter "Previous Amendment"). In particular, Zucker fails to disclose the claimed step of "advancing the compression member over the locating member." Zucker's locating member 102 is part of an integrated structure with the handle portion 128 and thus can not be advanced over handle portion 128. The shaft 102 and both balloons 124 and 150 are advanced as a single unit.

However, the Office Action asserts that this argument is not supported by the claim language (Office Action: pages 4, 5). Although Applicant disagrees, independent claim 1 has nevertheless been amended for clarity and to further distinguish over Zucker. No new matter has been added. In particular, claim 1 has been amended to recite, among other things, "advancing the tubular compression member over the inserted locating member after the sheath has been removed from the tissue tract so that the locating member is received in the central passage of the tubular compression member and the expansible tissue compression element is located within the tissue tract at a predetermined distance proximal from the wall of the blood vessel." As the "locating member" is instead inserted into the tissue tract through the sheath before it has been removed, it can be understood that the "compression member" and the "locating member" are separate elements which are inserted/advanced through the tissue tract independently from each other. The "expansile member" (of the "locating member") and "expansile tissue compression element" (of the "compression member") are therefore separate elements which are also inserted/advanced through the tissue tract independently.

Applicants note that the Examiner has regarded Zucker's anchor balloon 124 as the expansible member and Zucker's peripheral balloon 150 as the expansible tissue compression element. As shown in Fig. 1 of Zucker, anchor balloon 124 and peripheral balloon 150 are disposed on the same shaft 102 and are attached thereto at locations fixed relative to one another. As shown in Fig. 3B, the shaft 102, including anchor balloon 124 and peripheral balloon 150, is inserted through a tissue tract as a single unit. Anchor balloon 124 and peripheral balloon 150 are not and can not be inserted/advanced through the tissue tract independently from each other. Moreover, Fig. 3B shows that peripheral balloon 150 is inserted through the tissue tract and into the blood vessel lumen, which is contrary to claimed step of "advancing the tubular compression member ... so that ... the expansible tissue compression element is located within the tissue tract." Furthermore, as shown in Figs 3F and 3G, Zucker's catheter introducer sheath 304 is removed from the tissue tract while leaving shaft 102 in the tissue tract, with anchor balloon 124 and peripheral balloon 150 being left in the artery 300 (Zucker: paragraphs 0048, 0049). Thus, Zucker clearly fails to disclose the claimed "advancing" step, which is performed "after the sheath has been removed from the tissue track."

For at least the above reasons, claim 1 is allowable over Zucker. The remainder of the claims which were rejected under 35 U.S.C. §102(b) depend from claim 1. Applicants respectfully request withdrawal of all the anticipation rejections.

Claims 3-4, 7, 9, 14, and 18-21 were rejected under 35 U.S.C. §103(a) as allegedly being obvious under Zucker. The Examiner's position is that the subject matter of the rejected claims was either well known in the art or an obvious design choice. The rejected claims all depend on independent claim 1 which has been distinguished from Zucker above. Applicant respectfully requests withdrawal of all the obviousness rejections.

Appl. No. 10/821,633
Amdt. dated March 25, 2009
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 3734

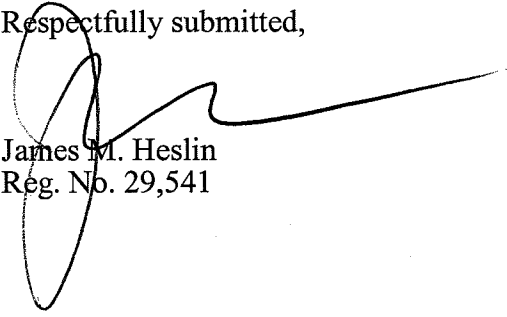
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CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


James M. Heslin
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
Attachments
JMH:djc:jke
61816739 v1